

FEDERAL SUBSISTENCE FISHERIES MANAGEMENT REGULATIONS

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[Please Note: Map pages are in brackets]

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Section 3: Subsistence Taking of Shellfish

GENERAL INFORMATION

INTRODUCTION

This booklet is designed to be a convenient summary of the Federal subsistence fishing regulations contained in 50 CFR Part 100 and 36 CFR Part 242. There may be errors, omissions, or changes that occur after printing. To be certain of current regulations, refer to the *Code of Federal Regulations* and *Federal Register* publications. Please note the regulations appearing in this booklet may be changed by special actions of the Federal Subsistence Board at any time. Fishing District boundaries shown on maps are for illustration purposes only. The official source for fishing district boundaries is the Alaska Department of Fish & Game's Commercial Fishing Regulations. If you need additional help or clarification, please contact the Office of Subsistence Management at 800-478-1456 or 907-786-3888 (in Anchorage). These regulations are also posted on our web site on: <http://www.r7.fws.gov/asm/home.html>.

FEDERAL SUBSISTENCE MANAGEMENT

The Federal government has managed subsistence trapping, hunting, and limited fishing on Federal public lands and waters since July 1, 1990. On October 1, 1999, the Secretaries of the Interior and Agriculture published regulations (36 *CFR Part 242* and 50 *CFR Part 100*) to expand Federal management of subsistence fisheries to Alaskan rivers and lakes and limited marine waters within and adjacent to Federal public lands. The expanded jurisdiction was directed by the 9th Circuit Court in the *Katie John* case, and meets the requirements of the rural subsistence priority in Title VIII of the *Alaska National Interest Lands Conservation Act* (or ANILCA). These subsistence fishing and shellfish regulations apply for the 2001-2002 regulatory year, effective March 1. For maps, see pages 2 (fishery areas) and 50 (shellfish areas). Proposal forms to change these regulations for 2002-2003 can be found on page viii.

The Alaska Department of Fish & Game regulations continue to apply to all commercial fisheries, sports fisheries, personal use fisheries statewide, and for subsistence fisheries unless otherwise restricted by Federal regulations. These subsistence fisheries regulations are published separately from Federal subsistence trapping and hunting regulations.

STATE AND FEDERAL FISHING REGULATIONS

Often Federal subsistence fisheries occur in the same area as State of Alaska fisheries. You may not add the harvest limit from a Federal subsistence fishery and bag limit from a State fishery together to increase your harvest limit. These Federal regulations do not apply off Federal lands and waters.

Non-rural residents and non-Alaska residents may not fish under the Federal subsistence regulations in this booklet. You may still fish on most Federal public lands and waters under State of Alaska general fishing regulations. Contact the Alaska Department of Fish & Game for a State regulations booklet and more information. You

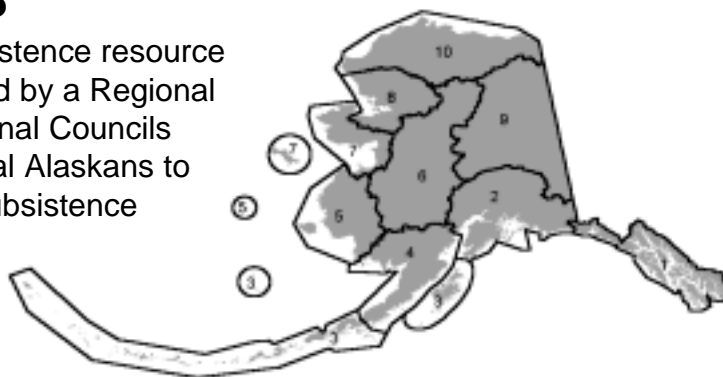
can find State fish regulation booklets throughout Alaska at many sporting goods or grocery stores or information online at <http://www.state.ak.us/local/akpages/FISH.GAME/adfghome.htm>.

FEDERAL SUBSISTENCE BOARD

The Federal Subsistence Board oversees the Federal Subsistence Management Program. The Alaska directors of the U.S. Fish & Wildlife Service, the National Park Service, the Bureau of Land Management, the Bureau of Indian Affairs, and the USDA Forest Service are members of the Board. A representative of the Secretary of Interior serves as Chair. Federal Subsistence Regional Advisory Councils and State of Alaska representatives have an active role in Board deliberations. Information on the Federal Subsistence Board, including news releases, meeting schedules, and related information, can be found on the internet at <http://www.r7.fws.gov/asm/home.html>, or by contacting the Office of Subsistence Management.

FEDERAL SUBSISTENCE REGIONAL ADVISORY COUNCILS

Alaska is divided into ten subsistence resource regions. Each region is represented by a Regional Advisory Council. These ten Regional Councils offer important opportunities for rural Alaskans to contribute to the management of subsistence resources. The Regional Councils develop and review proposals to change Federal subsistence regulations, and provide valuable local information to the Federal Subsistence



Board and Federal Subsistence Management Program. Each Regional Council meets at least twice a year, and subsistence users can comment on subsistence issues at these meetings.

Schedules, minutes, regulations, and other information on the Regional Councils can be found on the internet at <http://www.r7.fws.gov/asm/home.html>, or by contacting the Office of Subsistence Management.

REGIONAL COUNCIL MEMBERSHIP

The Secretaries of the Interior and Agriculture appoint Regional Council members. To qualify, members must reside in the region they wish to represent and have knowledge of regional subsistence uses and needs. If you are interested in applying for membership, please contact the Regional Coordinator for your region (on page iv), or call the Public Involvement Specialist for the Subsistence Office at (800) 478-1456/ (907) 786-3888.

GENERAL INFORMATION

REGIONAL COORDINATORS

The Federal Subsistence Regional Coordinators work closely with the Regional Advisory Councils and the Federal Subsistence Board. Each Regional Coordinator is responsible for one or two regions. They serve as contacts for the Regional Councils, Federal agency staffs and the public. Contact the Regional Coordinators or Public Involvement Specialist for more information on the activities of each Regional Council, or if you are interested in applying for membership on a Regional Council.

Southeast, Region 1

Fred Clark, Juneau

(800) 586-7895 or (907) 586-7895

Fax: (907) 586-7860

E-mail: Fred_Clark@fs.fed.us

Western Interior, Region 6

Vince Mathews, Fairbanks

(800) 267-3997 or (907) 456-0277

Fax: (907) 456-0208

E-mail: vince_mathews@fws.gov

Southcentral, Region 2 and Seward Peninsula, Region 7

Ann Wilkinson, Anchorage

(800) 478-1456 or (907) 786-3888

Fax: (907) 786-3898

E-mail: ann_wilkinson@fws.gov

Northwest Arctic, Region 8 and North Slope, Region 10

Barb Armstrong, Kotzebue

(800) 492-8848 or (907) 442-3799

Fax: (907) 442-3124

E-mail: Barbara_Armstrong@fws.gov

Kodiak/Aleutians, Region 3 and Bristol Bay, Region 4

Cliff Edenshaw, Anchorage

(800) 478-1456 or (907) 786-3888

Fax: (907) 786-3898

E-mail: cliff_edenshaw@fws.gov

Eastern Interior, Region 9

Donald Mike

(800) 478-1456 or (907) 786-3888

Fax: (907) 786-3898

E-mail: donald_mike@fws.gov

Yukon-Kuskokwim Delta, Region 5

Alex Nick, Bethel

(800) 621-5804 or (907) 543-3151

Fax: (907) 543-4413

E-mail: alex_nick@fws.gov

In addition to the Regional Council Coordinators, you may also contact the Office of Subsistence Management's Public Involvement Specialist for information about Regional Council memberships, Regional Council nomination forms, meeting schedules, or other information.

Public Involvement Specialist

Michelle Chivers, Anchorage

Office of Subsistence Management

(800) 478-1456 or (907) 786-3888

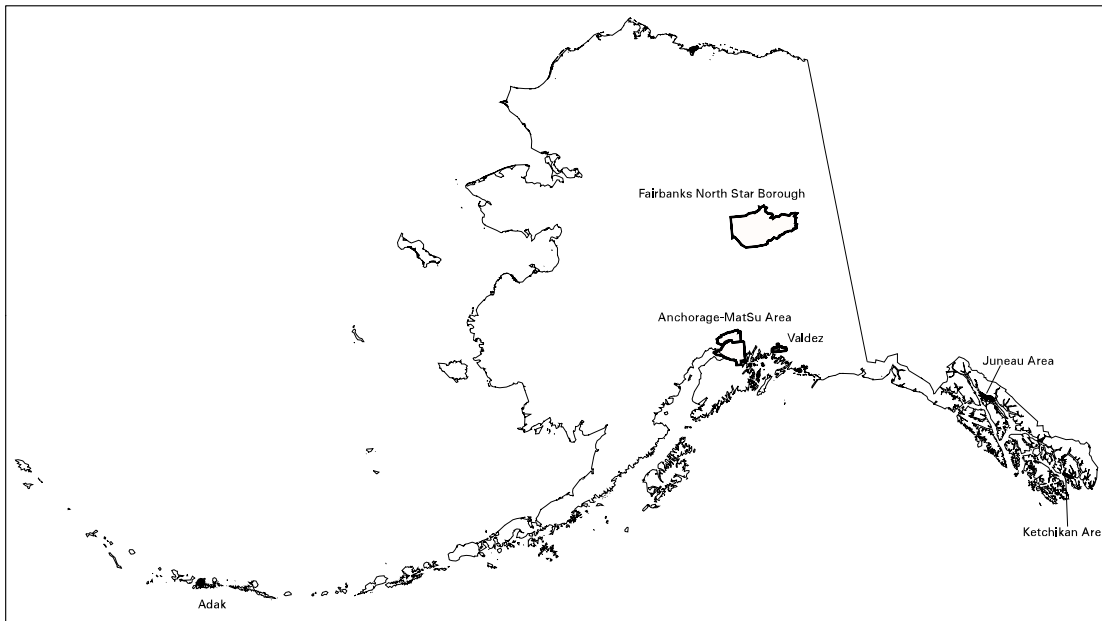
Fax: (907) 786-3898

E-mail: michelle_chivers@fws.gov

DO THESE REGULATIONS APPLY TO YOU?

Are you a rural Alaska resident? You must be a rural Alaska resident to harvest fish and shellfish under Federal subsistence regulations. You must have your primary, permanent residence in a rural area to qualify to fish under Federal subsistence regulations. A seasonal residence does not qualify you as a rural resident.

Federal Nonrural Areas



ak_nonrural_vfview 06/00

[See enlarged maps of nonrural areas on following page.]

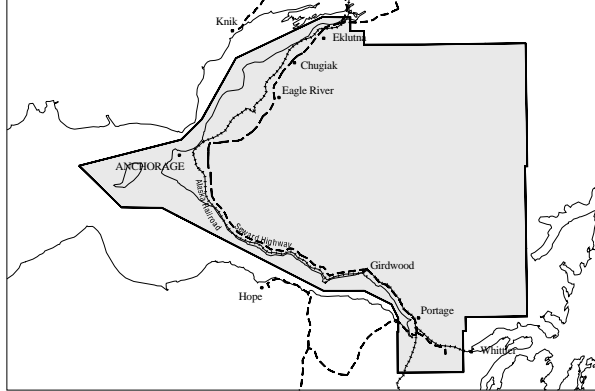
All communities and areas in Alaska are rural, except:

- **Adak**
- **Anchorage** (Municipality)
- **Fairbanks** North Star Borough
- **Juneau** area (Douglas, Juneau, West Juneau)
- **Ketchikan** area (Clover Pass, Herring Cove, Ketchikan City, Ketchikan East, Mountain Point, North Tongass Highway, parts of Pennock Island, Saxman East)
- **Valdez**
- **Wasilla** area (Big Lake, Bodenberg Butte, Houston, Palmer, Wasilla)

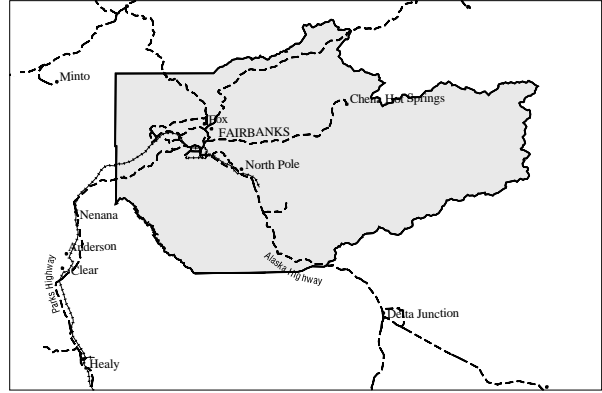
GENERAL INFORMATION

MAPS OF NONRURAL AREAS

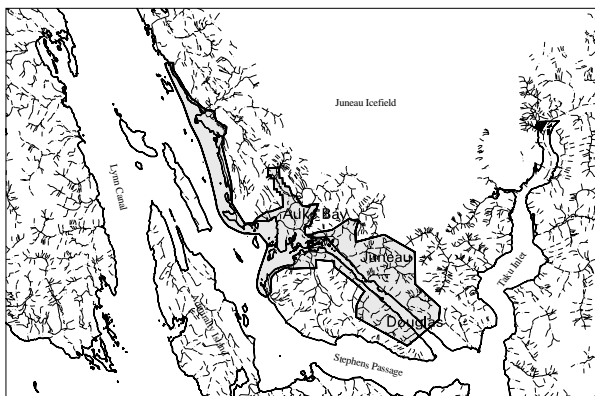
Anchorage Municipality Nonrural Area



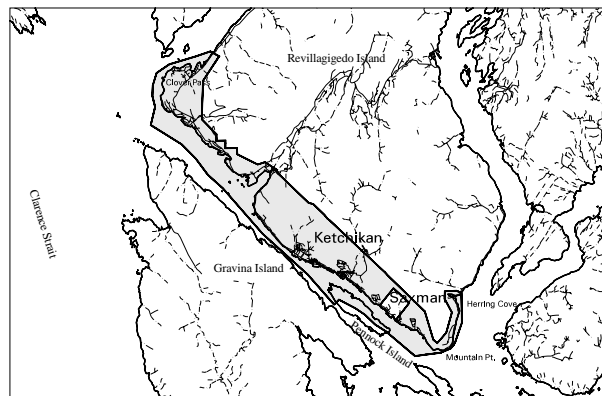
Fairbanks North Star Borough Nonrural Area



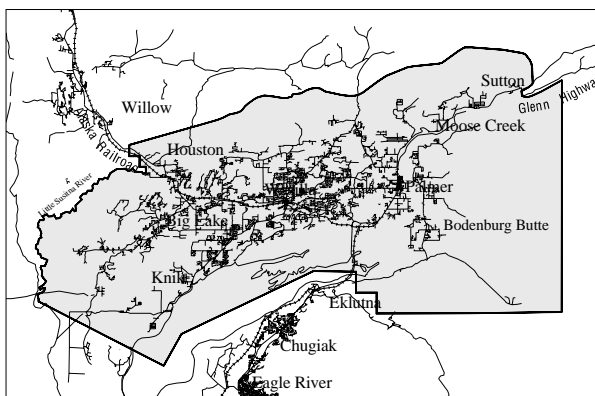
Juneau Nonrural Area



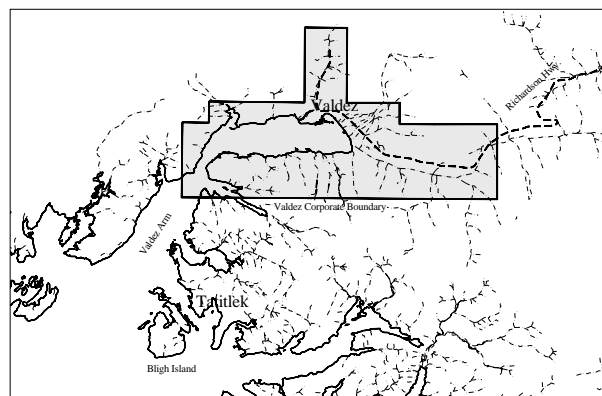
Ketchikan Nonrural Area



Matanuska Susitna Nonrural Area



Valdez Nonrural Area



DO THESE REGULATIONS APPLY TO YOU?

1 Do you qualify for customary and traditional use? The Federal Subsistence Board decides which communities or areas have customarily and traditionally taken a fish stock. Each fishery management area lists any customary and traditional use determinations, along with seasons and harvest limits, and any special provisions. When there is a positive determination for specific communities or areas, only those communities and areas have a Federal subsistence priority for that species in that fishery management area. If the Board has not made a customary and traditional use determination for a fish stock in a fishery management area, then all rural residents of Alaska may use that stock or population in that area.

No Federal subsistence priority means that the Federal Subsistence Board determined there is no customary and traditional use of that fish stock and there are no Federal subsistence seasons for that species in that fisheries management area. Fishing may be allowed under State of Alaska regulations.

Refer to the C&T Tables on page 11 for fisheries and page 61 for shellfish to identify existing C&T usage regulations. C&T information is also included in each fishery management area.

2 Will you be fishing on waters on Federal public lands? The regulations apply only to waters on, flowing through, or adjacent Federal public lands, including all waters within the boundaries of the conservation units listed on page i, regardless of land ownership within those boundaries. Such lands are managed by the U.S. Fish & Wildlife Service, National Park Service, Bureau of Land Management, and U.S. Forest Service. These waters include all components of the Wild & Scenic Rivers System located outside boundaries of National Parks, National Preserves or National Wildlife Refuges, including segments of the Alagnak River, Beaver Creek, Birch Creek, Delta River, Fortymile River, Gulkana River, and Unalakleet River. These regulations

do not apply on general domain lands managed by the Bureau of Land Management, except on non-navigable waters.

The public lands described in this booklet may change through rulemaking pending a Department of the Interior review of title and jurisdictional issues. These regulations do not apply to waters on or flowing through State lands, private lands, or Federal lands selected by the State of Alaska or Native corporations, unless those lands are within the boundaries of Federal conservation lands. There are no Federal open seasons in areas that have no Federal public lands. Check the maps carefully to know what waters are under Federal jurisdiction. You may also contact any of the Federal offices listed in the back of this booklet.

3 What are the seasons and harvest limits? Check the season and harvest limit information for each fishery management area for open seasons for the fish stock that you wish to harvest. Also note any special provisions.

4 What licenses, permits or harvest tickets do you need? No fishing license is required for subsistence fisheries, but some fishery management areas may require permits or harvest tickets. Subsistence users must possess and comply with any State or Federal permits or harvest reports. Unless otherwise specified, permits are not required to take fish by rod and reel or on a line attached to a rod or pole under these regulations.

5 Other important information. The sections of this booklet contain important information. Read the special provisions for each fishery management area where you wish to harvest fish or shellfish. If you have questions, contact the Office of Subsistence Management (see inside cover).

GENERAL INFORMATION

SPECIAL REQUIREMENTS FOR NATIONAL PARK SERVICE LANDS

Subsistence use of resources in areas the National Park Service manages is subject to additional rules and is restricted to local residents in national preserves, and in national monuments and parks open to subsistence. National Park Service regulations govern which communities or individual residents qualify as local rural residents for specific National Park Service areas. Glacier Bay National Park, Katmai National Park, Kenai Fjords National Park, Klondike Gold Rush National Historic Park, "old" McKinley National Park, and Sitka National Historical Park are closed to subsistence. Users of National Park Service areas are responsible for complying with these regulations (*36 CFR Part 13, Subparts A, B, and C*). For more information about National Park Service regulations affecting subsistence, contact:

**National Park Service
Alaska Support Office**
2525 Gambell Street
Anchorage, AK 99503
(907) 257-2649; fax (907) 257-2517

TOPOGRAPHIC MAPS

For detailed topographic maps, contact the U.S. Geological Survey, 4230 University Drive, Alaska Pacific University, Room 101, Anchorage, AK 99508 or call (888) ASK-USGS, (907) 786-7011, to order quadrangle maps. E-mail: gfdurocher@usgs.gov.

ALTERNATIVE PERMITTING SYSTEMS

The Federal Subsistence Board may establish community harvest and designated fishing permits and reporting systems in some communities. These systems are based on customary and traditional practices, including those practices associated with cultural and religious beliefs. The Federal Subsistence Board continues to work to establish other alternative community harvest and reporting systems where appropriate.

HOW TO CHANGE THE FEDERAL SUBSISTENCE FISHERIES REGULATIONS

Alaska citizens and subsistence users are an integral part of the Federal regulatory process. Any person or group can submit proposals to change or improve Federal subsistence regulations, comment on proposals, and testify at meetings. The ten Regional Advisory Councils meet at least twice a year. By becoming involved in the process, subsistence users help us to more effectively manage subsistence activities and ensure consideration of traditional and local knowledge in subsistence management decisions.

- | | |
|------------------------------------|--|
| Jan. 2, 2001 | Proposal period opens. Any person or group may submit proposals to change Federal subsistence fisheries and shellfish seasons, harvest limits, and methods and means of taking fish for the 2002 Regulatory Year (March 2002-February 2003). |
| Feb. 19- Mar. 30, 2001 | Regional Advisory Council winter meetings. The ten Federal Subsistence Regional Advisory Councils each meet to develop fisheries and shellfish proposals for 2002 Regulatory Year, to hear public comments on subsistence issues, and for other business. |
| Mar. 30, 2001 | Proposal period closes. |
| May 7- June 6, 2001 | Public Comment period begins. Proposals to change the Federal subsistence fisheries and shellfish regulations for the 2002 Regulatory Year are distributed for public review and comment. |
| Sept. 10- Oct. 19, 2001 | Regional Advisory Council fall meetings. The ten Regional Advisory Councils meet to review regional proposals, staff analyses of proposals, public comments received on proposals, and make recommendations to the Federal Subsistence Board on the 2002 Regulatory Year subsistence fisheries and shellfish proposals. |
| Dec. 11-14, 2001 | Federal Subsistence Board meets to consider public and staff input, review Regional Council recommendations, and hear additional public comments before establishing the final regulations for the 2002 Regulatory Year. |
| Mar. 1, 2002 | New Regulations for the 2002 Regulatory Year go into effect. |

For more information, check out the Federal Subsistence Management Program website at: <http://www.r7.fws.gov/asm/home.html>.

PROPOSAL FORM

PROPOSAL GUIDELINES

Please use the following form (or format) to request changes to Federal regulations for the subsistence harvest of fish and shellfish on Federal public lands and waters for the 2002 Regulatory Year (from March 1, 2002, to February 28, 2003). Proposals will be accepted through **March 30, 2001**.

You may propose changes to:

- Harvest limits
- Federal subsistence season dates
- Methods and means of harvest
- Customary and traditional use determinations
- For National Parks and National Monuments, individuals who live in resident zone communities (see 36 *CFR* 13.43) respectively for each park or monument and people who already hold a Section 13.44 subsistence use permit issued by the superintendent (see 36 *CFR* 13.44) may apply for an individual C & T use determination.

Submit proposals to:

Federal Subsistence Board
3601 C Street, Suite 1030
Anchorage, Alaska 99503

Fax: (907) 786-3898

E-mail: bill_knauer@fws.gov

This booklet can be a helpful references in developing proposals. You may also request copies of the proposed regulations published in the *Federal Register*.

It is not necessary to use this form to submit a proposal, but please include all information requested on the following page in your submission. A separate form must be submitted for each proposed change. You may mail, fax, or E-mail proposals. Forms submitted by fax (907) 786-3898 or by E-mail to bill_knauer@fws.gov, will be considered originals.

For additional materials or information:

Telephone: (800) 478-1456 or (907) 786-3888
*TTY users may call through the
Federal Relay Service (800) 877-8339*

Fax: (907) 786-3898

E-mail: bill_knauer@fws.gov

Electronic copies of this form are available on the Office of Subsistence Management Internet Home Page at **www.r7.fws.gov/asm/home.html**.

PROPOSAL FORM

Proposed by: _____
Name: _____
Organization/Affiliation: _____
Mailing Address: _____
Daytime Phone: _____ Fax Number: _____ E-mail: _____

PLEASE ANSWER ANY OF THE FOLLOWING QUESTIONS THAT APPLY. (Attach additional sheets as necessary).

1. **What are you proposing to change?** *[Please include fishery/shellfish management area(s) and species, and, if possible, quote the current regulation. Identify if the change is for customary and traditional use determinations, season, harvest limits, methods, users, or other.]*
2. **How should the new regulation read?** *[Write the regulation the way you would like to see it written.]*
3. **Why should this change be made?** *[Explain reasons for the change.]*
4. **What impact will this change have on fish and shellfish populations?**
5. **How will this change affect subsistence users?**

PLEASE ANSWER QUESTIONS 6-8 ONLY IF YOU ARE PROPOSING A CHANGE TO A CUSTOMARY AND TRADITIONAL USE DETERMINATION.

6. **Which communities have used this resource? When?** *[Include time periods, if possible].*
7. **Where has the resource been harvested?** *[Include specific areas, if known.]*
8. **When has the resource been harvested?** *[What months or seasons does harvest occur?]*

Is there any additional information that supports your proposal? *[This might include current fish/shellfish population trends, how the fish/shellfish are processed, how resources are shared, what other resources are harvested by the communities, how knowledge of fish/shellfish is passed down, or any other information.]*

GENERAL DEFINITIONS

ADF&G means the Alaska Department of Fish & Game.

Agency means a subunit of a cabinet level Department of the Federal government having land management authority over the public lands. This includes: The U.S. Fish & Wildlife Service, Bureau of Indian Affairs, Bureau of Land Management, National Park Service, and USDA Forest Service.

ANILCA means the *Alaska National Interest Lands Conservation Act*, Public Law 96-487, 94 Stat. 2371, (December 2, 1980) and codified, as amended, in scattered sections of 16 U.S.C. and 43 U.S.C.

Area, District, Subdistrict, and Section means one of the geographical areas defined in the codified Alaska Department of Fish & Game regulations found in Title 5 of the *Alaska Administrative Code*.

Barter means a limited, noncommercial exchange of fish or shellfish (or their parts) taken for subsistence uses, for other fish or shellfish (or their parts). Barter can also mean exchanging subsistence taken fish or shellfish for wildlife, other food, or for non-edible items other than money.

Board means the Federal Subsistence Board.

Customary and traditional use means a long-established, consistent pattern of use, incorporating beliefs and customs that have been transmitted from generation to generation. This use plays an important role in the economy of the community.

Customary trade means cash sale of fish or wildlife resources, not otherwise prohibited by Federal law or regulation, to support personal and family needs. Customary trade does not include trade that constitutes a significant commercial enterprise.

Drainage means all of the waters comprising a watershed, including tributary rivers, streams, sloughs, ponds and lakes which contribute to the water supply of the watershed.

Family means all persons related by blood, marriage or adoption, or any person living within the household on a permanent basis.

Federal land(s) means lands and waters, the title to which belongs to the United States, including navigable and non-navigable waters in which the United States has reserved water rights.

Fish and wildlife means any member of the animal kingdom, including any mammal, fish, amphibian, reptile, mollusk, crustacean, arthropod, or bird (including any migratory, nonmigratory or endangered birds protected by treaty or other international agreement) or other invertebrate. Fish and wildlife also includes any animal kingdom part, product, egg, offspring, or the carcass or part of the carcass.

Freshwater of streams and rivers means the line at which freshwater is separated from saltwater at the mouth of streams and rivers by a line drawn headland to headland across the mouth as the waters flow into the sea.

Harvest limit means the maximum legal take per person or designated group, per specified time period, in the area in which the person is fishing or shellfishing (even if part, or all of the fish or shellfish are preserved).

Household means a person or persons having the same residence.

Inland waters means waters located landward of the mean high tide line or upstream of the straight line drawn from headland to headland across the mouths of rivers or other waters as they flow into the sea. Inland waters include (but are not limited to) lakes, reservoirs, ponds, streams, and rivers.

Marine Waters are those waters located seaward of the mean high tide line or seaward of the straight line drawn from headland to headland across the mouths of rivers or other waters as they flow into the sea.

Mile means a nautical mile when used in reference to marine waters or a statute mile when used in reference to fresh water.

Person means an individual and does not include a corporation, company, partnership, firm, association, organization, business, trust or society.

Possession limit means the maximum number of fish (or shellfish) a person or

GENERAL DEFINITIONS

designated group may have in possession if the fish (or shellfish) have not been canned, salted, frozen, smoked, dried, or otherwise preserved so as to be fit for human consumption after a 15 day period.

Public land(s) means: 1) Federal lands situated in Alaska, except:

(i) State of Alaska land selected under the *Alaska Statehood Act* or granted to the State or Territory of Alaska under any other provision of Federal law;

(ii) Native Corporation land selected under the *Alaska Native Claims Settlement Act*, 43 U.S.C. 1601 *et seq.*, but not conveyed to a Native Corporation (unless that selection is invalid or relinquished);

(iii) Lands referred to in Section 19(b) of the *Alaska Native Claims Settlement Act*, 43 U.S.C. 1618(b).

2) Until conveyed, all Federal lands within the boundaries of any unit of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers Systems, National Forest Monument, National Recreation Area, National Conservation Area, new National forest or forest addition will be treated as public lands for the purposes of these regulations.

Regional Councils are advisory bodies representing the ten subsistence resource regions in Alaska. The Regional Councils review and propose changes to Federal subsistence management regulations; provide a regional forum for the collection and expression of opinions and recommendations on matters related to subsistence taking and uses of fish and wildlife resources on public lands; and provide for public participation in the Federal regulatory process. Members must be residents of the region they represent, be knowledgeable about the region and subsistence uses of the lands and waters, and are appointed by the Secretaries.

Regulatory year for fisheries and shellfish means March 1 through the last day of February.

Reserved water right(s) means the Federal right to use unappropriated appurtenant water necessary to accomplish the purposes for which the Federal reservation was established. Reserved water rights

include nonconsumptive and consumptive uses of water.

Resident means any person whose primary, permanent home for the previous 12 months was within Alaska. Whenever absent from this primary, permanent home, the person has the intention of returning to it. Factors demonstrating the location of a person's primary, permanent home may include: An address listed on an Alaska Permanent Fund dividend application; an Alaska license to drive, hunt, fish, or engage in an activity regulated by a government entity; an affidavit from person(s) who know the individual; voter registration; location of residences owned, rented or leased; location of stored household goods; residence of spouse, minor children or dependents; tax documents; or whether the person claims residence in another location for any purpose.

Rural means any community or area of Alaska determined by the Board to qualify as rural, using guidelines in Federal regulations. Only residents of communities or areas that the Board has determined to be rural are eligible for subsistence priority (see page v).

Secretary means the Secretary of the Interior, except when referring to any unit of the National Forest System, when such term means the Secretary of Agriculture.

State means the State of Alaska.

Subsistence uses means the customary and traditional uses by rural Alaska residents of wild, renewable resources. These uses are for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade.

Take or taking with respect to fish or wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

Year means calendar year unless another year is specified.

Correction

Yukon-Northern and Norton Sound-Port Clarence

When going to press with this booklet, we learned the State of Alaska realigned the fishing area boundaries for the Yukon-Northern Area and Norton Sound-Port Clarence Area at Point Romanof.

The Federal regulations at 50 CFR 100.4 “Definitions” and 36 CFR 242.4 “Definitions” each specify that we will also use the State regulations.

In the following area descriptions and maps for Yukon-Northern and Norton Sound-Port Clarence, we have not reflected the realigned boundaries at Point Romanof.

We will correct this in the next edition of the *SUBSISTENCE MANAGEMENT REGULATIONS For the Harvest of Fish and Shellfish on Federal Public Lands and Waters in Alaska*.